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To: Microsoft ATR
Date: 12/6/01 5:54pm
Subject: Why the MS settlement is unequitable.

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The following opinions are drawn from personal experience and reflect my opinions only.

Microsoft, the software and hardware computer company, based in Redmond Washington, simply put, has become too big for it's britches. This is manifested in several areas:

Non-competitive business practices

Instigating fear, uncertainty and doubt

Disregarding previous Court orders to cease and desist

Continued use of illegal business practices.

The freedom to innovate is non-existent

The DOJ must not continue to turn a blind eye to Microsoft. Through all the lobbying that MS does on it's own behalf, trying to instill comfort, they are only holding a knife to the throats of millions of computer users.

Anti-competitive business practices.

MS has defeated many independent software businesses by creating vaporware (software that is advertised via press releases, but never actually in production or development). When MS claims they are going to build a product, most companies see MS putting millions of dollars into it. The smaller business can't spend that kind of money, so they give up, usually do to the fact investors become disillusioned, knowing that MS's product is coming out soon. But then it never does.

I have no instances to cite in this case, I'm sure others do. I have been told however, that another MS tactic in this regard is to "swallow" up the smaller company, usually abandoning further development of the software.

In more recent times, regarding the release of Windows 95, MS continued to hold out critical programming information from independent software vendors (ISV's) until after the release of the new OS. This accomplished a major coup for MS, in that they were able to program all their "tie-in" applications such as Office 95, to the final API because they already knew what it was. Other ISV's were continually given newer API's as the OS development went along, most of which were "not quite right". By the time the OS was released, all MS tie-in applications were also ready, whereas most ISV applications were sorely lacking behind in development because they never received copies of the final API's in time to finish code work. This itself enabled MS to leap ahead of many ISV's almost sending them out of business. This is a clear situation where the applications side of Microsoft needs to be removed from the Operating system side.

The WordPerfect case.

10 years ago, most literate office computer users were secretaries. The people typically did a lot of typing. Ask them 10 year ago what the premier software package was for word processing, and you would have been told "WordPerfect". That is not the answer today. However, the different answer of today is not because of better features or ease of use, it because of product "dumping". 10 years ago, most new computers that came with a Pre-installed version of an MS operating system, also came with a "free" copy of MS Office. One of the components of MS Office was MS Word, a word processor. Most corporate or company accountants and managers did not see a need to purchase "another" word processor when one came readily supplied, no matter what the end-user wanted. After a couple of years of saturating the market in this manner, MS was able to "claim" they had a larger share of installed word processors than WordPerfect. Even if the installed Word was not used, because an end-user had installed WordPerfect, MS was still able to make the claim because they used "installed" numbers, ie. each computer sold had Office pre-installed. WordPerfect corporation soon thereafter sold to another company, who then sold it to a third company who then sold it to Corel. The interim two companies, Novell and Borland, both tried to package an Office suite to compete with MS, however, MS continued to have their suite pre-installed for far less money. Later, when Corel announced they were releasing a new Office Suite with WordPerfect as the cornerstone, and made an announcement of price, MS

retorted that Corel could not do that, that it was cutting their own throat, and that Corel would go out of business in a year. Corel took that seriously and never really released the suite at the cut-rate price. Why did MS make that claim? Because they already knew, because that is exactly what they had done with MS Office, they had lost money "dumping" it on the market until the market became saturated. Why is it that I could buy MS Office one year for less than \$100, but to "upgrade" the very next year would cost me almost \$500. MS found their saturation point, where consumers were engrained in the new status quo and then started charging them for the privilege of having buggy software.

Instigating Fear, uncertainty and doubt.

In summary, Caldera was in the process of litigation with MS regarding the practice of MS to detect installed operating systems and warning consumers that the MS products would not work correctly. Caldera had at one time, reams of testimony and documentation verifying this practice. The fact was, the MS software worked "better" on the competing operating system, but MS didn't want that. MS wanted the consumer to "only" run their operating system, even if it meant their own applications would crash. By installing detection routines, MS was able to know what operating system their program was installed on. Once known, if the OS was a competitor, and most specifically DR-DOS, MS would pop-up a window explaining to the consumer the operating system was "not" MS and cautioning the user the software would not work correctly unless it was running on an MS OS. This was a blatant lie and caused frustration among consumers who had to put up with this "nag" screen until they either uninstalled the software, or switched the operating system.

Disregarding previous court orders to cease and desist.

In the early days of the Operating system wars, MS had contracted with many hardware vendors to have MS OS installed on the vendors hardware. That is innocent enough, that practice is used across a great many products. However, MS, in their contract, required the vendor to pay MS for each "processor" that was shipped. The agreement being that every processor has to have an operating system, and whether or not it shipped with a MS operating system, MS was going to be paid for every processor shipped. This was found to be an illegal business practice by Courts of law in the United States, and MS was admonished from that practice. However, it was too little too late from the DOJ. Vendors had come into the practice of "only" shipping computer with an MS product. Up until just a couple of years ago, it was almost impossible to purchase a computer "without" an MS operating system. Vendors "refused" to sell consumers, computers that did not have an MS OS installed. And this was certainly years after the DOJ required MS to cease and desist the practice of charging vendors "per processor" for licensing MS OS's. Most recently, when I contacted a computer hardware vendor, I asked why I couldn't buy a computer without an MS OS, and I was told that it was a contractual agreement with MS.

MS has just come down from the whole anti-trust debacle with Netscape and they don't care. MS is still illegally tying products together and are doing so in an even bigger and more anti-competitive way than ever before. And they are waving it in the face of the DOJ, feeling secure they are doing no wrong and that the DOJ will not lift a finger. Well, it really pisses us off.

Windows XP, the latest OS from MS ties more product together than ever before, putting out of competition, some of the more premier companies of our time. And the DOJ just turns a blind eye. Who suffers? The consumers, why.....

because

The freedom to innovate is non-existent
MS claims they are one of the premier innovators of computer software. To those of us in the industry we balk at that. Apple computer has been way ahead of MS in many ways, but MS uses anti-competitive business practices to saturate the marketplace. Linux has developed more innovation in a

fraction of the time it has taken MS.

The fact is, when you become a monopoly, there is no reason to innovate. People will buy the product because it is the only one around, whether it works, or not.

I once had a software programming friend who had an MS employee friend visit him one day. A conversation ensued about the MS memory model, the way MS handles memory for the OS and applications while the computer is running. The employee was complaining how MS had ignored improving the memory model for over 10 years, stagnating the innovation needed to improve the model to protect applications from crashing. This was necessary and prudent innovation that was being purposely ignored by MS. Other companies had to come in and provide certain services to try and "patch" the problem-plagued model. Companies like Stacker, and Norton. Eventually, MS simply "stole" some of that outsider innovation and implemented it in their own OS. MS-DOS 6.0 was the product. In a tug-of-war court battle, Symantec claimed that MS had used Symantec proprietary code in some utilities distributed with the OS. MS was found at fault and fined something like \$22M. Likewise, Symantec was fined about \$12M because they had to "reverse engineer" the OS from MS (which is a breach of the EULA). This situation only underscored the fact that MS was not actually "innovating" new software, they in fact were only interested in stealing patches.

So where does that leave the user? At this point, MS has left us with a broken product. I say broken, because 1) they don't supply enough information to outside software vendors for them to effectively program new products against the MS OS, causing them to crash in many cases, both the application and the OS, 2) MS fails to effectively "fix" its own OS, relying on continued patches that the customer must "buy" in the form of an upgrade. This does not include some patches available for download, however, the point I make is that each successive release appears to include more "whistles and bells" than actual OS fixes.

For example, I am writing this on an MS OS system. I have had to reboot this machine a few times today. Mostly, it will run well for a maximum of about a week before it really starts crashing things and I have to reboot it. Against that, I have three other systems I maintain that use non-MS OS products. Each of them has been running for several months without a reboot, and they typically do a lot more processing than a Windows machine.

My points are all over the map and there just is not enough room to effectively communicate how displeased I am with MS. I once really believed in MS as a decent Software company, but I can no longer in good conscience believe that. They have stifled innovation, they have driven other companies out of business, never released promised software, or been very late with it, have limited my personal freedoms to choose, through anti-competitive business practices with other vendors, and have generally just been a royal pain in the ass.

It's time to stop this madness. Break 'em up!! I'm so tired of losing time to problem MS products, when their answer to every technical question I have had in the last 10 years has been to "re-install the OS". I'm sorry, but that's just a mark of a bad company, like telling me I have to replace my electric company's transformer every time the power goes out. It's just ridiculous. There has been more than enough litigation, information, testimony, etc. (I followed the whole court battle, this one and others) and I am simply tired of the Federal Government caving in to MS. Break them up! Make MS pull all the "tied" applications out. Make them offer them separately, not bundled, or at the very least, make them go back to small "applets" (programs that gave a "taste" of something, but you'd have to buy the full-fledged program to get all the features)

To be honest, I'm not looking forward to MS as Big Brother, which is exactly the direction they are taking with Windows XP. The DOJ has a

responsibility to stop that, the DOJ has the responsibility to protect my privacy and freedoms as an individual.

Free giveaways are not the answer, slaps on the wrist are not the answer. It's time to dig up reprimands from the Big Blue era. Let's see what the DOJ did with IBM and start applying some of THAT to MS. Get on the ball.

Sincerely,
Asa Jay Laughton